

BEFORE THE ETHICS COMMISSION
FOR THE STATE OF TENNESSEE
AT NASHVILLE

IN RE: Molly Leach Pratt,

Respondent.

)
)
)
)
)

No. 2008-103

CONDITIONAL ASSESSMENT ORDER

This matter came on to be heard informally by the Commission on November 25, 2008 at its regularly scheduled meetings. Commission staff presented documentation indicating that Respondent failed to timely pay lobbyist registration fees as required by Tenn. Code Ann. § 3-6-302(e).

FINDINGS OF FACT

Documentation on file with the Commission shows, and the Commission finds, as follows:

1. Registration. Respondent Molly Leach Pratt, registered as a lobbyist for UT-Battelle and West Tennessee Healthcare on January 5, 2008, and January 9, 2008 respectively.
2. Lobbyist Registration Fee. Molly Leach Pratt had a duty under the Tennessee Comprehensive Governmental Ethics Reform Act of 2006 ("Act") to pay lobbyist registration fee for each company that retained her services no later than thirty days from registering.
 - a. As of February 10, 2008, Molly Leach Pratt had not paid her lobbyist registration fees.
 - b. On July 8, 2008, an email was sent to Molly Leach Pratt informing her of her failure to pay and the possible results of this action.
3. Notice of violation. On August 21, 2008, the Commission sent Molly Leach Pratt by certified mail, return receipt requested, a notice that the Commission intended to consider at its October 28, 2008 meeting assessment of civil penalties against Molly Leach Pratt for failure to timely pay lobbyist registration fees required by Tenn. Code Ann. § 3-6-302(e).
 - a. The notice set forth the allegation, the maximum amount of civil penalties that could be assessed, the date, place, and time of the meeting, and provided Molly Leach Pratt's opportunity to participate in an informal proceeding at the meeting either by appearing personally or by submitting a sworn statement and documents.

- b. In response to the notice, Molly Leach Pratt paid her registration fees on September 2, 2008.
4. Show Cause Hearing.
- a. On October 29, 2008, Molly Leach Pratt filed with the Commission a written, unsworn statement, stating that the failure to timely pay lobbyist registration fees was due error and confusion on her part. Since then, Molly Leach Pratt has worked with her bookkeeper to put a system in place to manage the process for client registration and payment of lobbying fees to insure that similar mistake does not occur in the future. Molly Leach Pratt apologized and took full responsibility for the mistake. On November 25, 2008, Molly Leach Pratt appeared before the Commission and, again, apologized for the late payment.

CONCLUSIONS OF LAW

The Commission concludes that Molly Leach Pratt had an obligation under the Act to timely pay lobbyist registration fees required by Tenn. Code Ann. § 3-6-302(e), failed to do so and had no "good cause" for such failure to timely pay. The Act authorizes the Commission to administratively assess civil penalties in an amount up to seven hundred fifty dollars (\$750.00) per violation, if a lobbyist fails to timely pay, without good cause. Tenn. Code Ann. § 3-6-306 (a)(1)(iii).

The Commission considers the complete failure to respond to the warning and notice concerning the failure to timely pay to be significant. The Commission has taken steps through training, website postings, and notices to help lobbyists to come into compliance with the Act. More than a year and a half has passed since the filing requirements of the Act became effective. The Commission finds that while Molly Leach Pratt did promptly pay its fees upon receipt of the Show Cause Notice and submitted a written response, the response was submitted over thirty (30) days after the Show Cause Notice was received and a day prior to the October 28, 2008 meeting. In the written response, Molly Leach Pratt stated that the failure to timely pay fees was due to error and confusion on her part and she explained the steps she has taken to rectify this problem and insure that no similar mistake occurs in the future. Accordingly, the Commission finds that Molly Leach Pratt should be assessed a civil penalty of four hundred fifty dollars (\$450.00) per violation for a total of nine hundred dollars (\$900.00).

This assessment cannot become final until after respondent has been afforded an opportunity for a notice and a hearing. Tenn. Code Ann. § 3-6-107(8). Respondent's failure to participate in the informal assessment process is without prejudice to its rights to a contested case hearing under the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-101—4-5-325.

CONDITIONAL ORDER

It is therefore ORDERED that a civil penalty in the amount of nine hundred dollars (\$900.00) is assessed against Molly Leach Pratt for failure to timely pay lobbyist registration fees.

It is further ORDERED that the Executive Director shall issue this order and file it in the Commission's offices.

It is FURTHER ORDERED that this order shall not become final if respondent files a timely request for reconsideration of petition for a contested case hearing.

It is further ORDERED that the Executive Director shall cause to be provided to the respondent, by either personal service, certified mail return receipt requested, or overnight delivery, a copy of this order, and notice of the following:

Respondent's right to seek reconsideration of this order by filing with the Commission, within fourteen (14) days of this order, a written request for reconsideration in the form set forth in the notice;

Respondent's right to initiate a contested case proceeding by filing with the Commission, within thirty (30) days of this order, a petition for a contested case hearing in the form set forth in the notice; and

That in the event of failure to timely file a request for reconsideration or a petition for a contested case hearing the order shall become final and may form the basis for legal action to collect the civil penalty.

SO ORDERED by the Commission, with Chair Brown and Commissioners Garland, Hall, and Purser approving; Commissioners Knight and Neal opposing.

Issued this 3rd day of December, 2008

TENNESSEE ETHICS COMMISSION

By: 

Bruce A. Androphy,
Executive Director